

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 94-40174

IN RE: ROY COOK & SONS, INC.,
Debtor.

U.S. TRUSTEE,
Appellant,

versus

ROY COOK & SONS, INC.,
Appellee.

Appeal from the United States District Court
For the Western District of Louisiana
(5:93 CV 1567)

March 23, 1995

Before REYNALDO G. GARZA, WIENER, and EMILIO M. GARZA:

PER CURIAM:*

* Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Disagreeing with the district court's reasoning,¹ we hold that the pre-1984 version of § 326(a) of the Bankruptcy Code caps the fees that may be awarded to the Chapter 7 trustee in this case. See 11 U.S.C. §§ 326(a), 330(a).² Because the clear language of the 1984 amendments, see Bankruptcy Amendments and Federal Judgeship Act of 1984 ("BAFJA"), Pub. L. No. 98-353, 98 Stat. 333 (1984), authorizes higher fees only in cases filed after October 8, 1984,³ see BAFJA, § 553(a),⁴ the bankruptcy court had no inherent equitable power to award compensation above that allowed under the pre-1984 compensation cap.⁵ Accordingly, we reverse the district

¹ The district court stated:
The bankruptcy court must be allowed sufficient discretion to shape a trustee's compensation so that the bankruptcy system will continue to operate efficiently. This court believes that the limits found in section 326(a) apply in routine cases only. That section provides for a uniform level of compensation in cases involving more than minimal assets. There is no reason to believe that section 326(a) was intended to penalize trustees assigned to cases involving minimal assets. Where the bankruptcy court, as here, finds that greater compensation is warranted by the particular situation, it is within that court's inherent power to depart from the specific limits of section 326(a).
Appellant's Record Excerpts, Tab 4.

² Section 330(a) authorizes the bankruptcy court to award a trustee compensation, subject to the limitations of § 326(a).

³ This bankruptcy proceeding was initially filed on September 28, 1983.

⁴ The exceptions to § 553(a) do not apply to this case.

⁵ See *Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 206, 108, S. Ct. 963, 968, 99 L. Ed. 2d 169 (1988) ("[W]hatever equitable powers remain in the bankruptcy courts must and can only be exercised within the confines of the Bankruptcy Code."); *Chiasson v. J. Louis Matherne & Assocs. (In re Oxford Mgmt., Inc.)*, 4 F.3d 1329, 1334 (5th Cir. 1993) (limiting exercise of equitable powers to actions consistent with the Bankruptcy Code); *United States v. Sutton*, 786 F.2d 1305, 1308 (5th Cir. 1986) (explaining that the Bankruptcy Code "does not authorize the bankruptcy courts to create substantive rights that are otherwise unavailable under applicable law, or constitute a roving commission to do equity").

court's order affirming the bankruptcy court's compensation award,
and render a fee award in the amount of \$4,869.81.